

Cairo 52 Legal Research Institute: Legal Unit Annual Activities Report for 2023



القاهرة ٥٢

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CAIRO 52

LEGAL RESEARCH INSTITUTE

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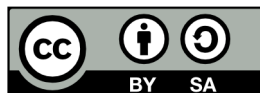
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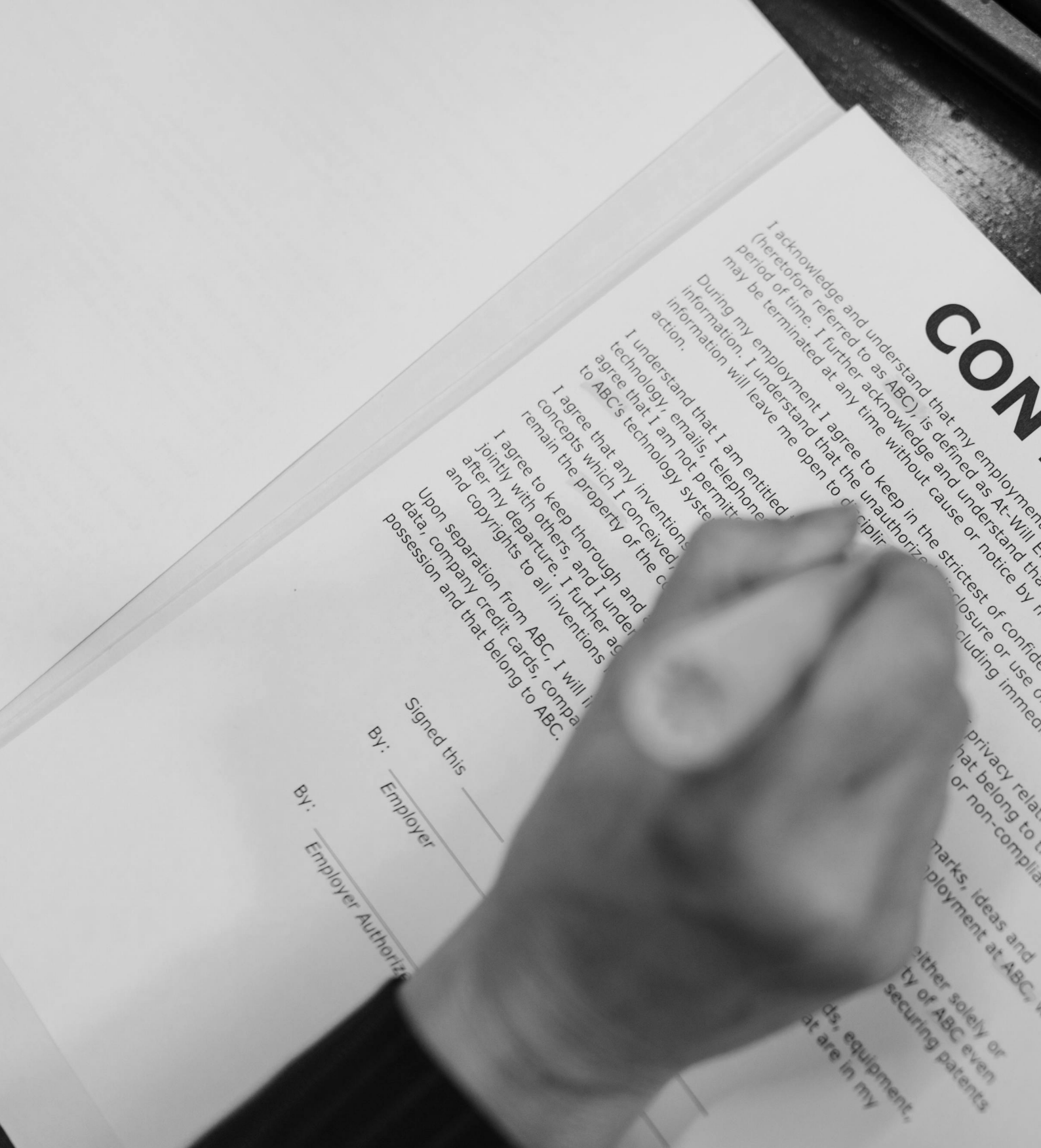
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Executive Summary

This report, produced by the Legal Unit of Cairo 52 Legal Research Institute, presents an overview of the unit's activities in 2023. The report is divided into three sections, each focusing on a critical department: Legal Aid, Legal Consultation, and Strategic Litigation. The legal unit aims to provide high-quality legal services to improve the human rights situation for individuals facing restrictions on their sexual and bodily freedoms, with a specific focus on LGBTQ+ people and sex workers. The report highlights the following key findings:

1. In 2023, the legal unit assisted a total of 56 individuals across its various departments. Of these, 20 received legal representation in courts, 34 received legal consultation, and two were involved in strategic litigation.
2. Among the 20 individuals who received legal representation in courts, 50% were acquitted, 15% received suspended sentences, 25% had their sentences reduced on appeal, and 10% are still awaiting their appeal.
3. All 20 individuals were arrested through digital means, highlighting the increasing importance of digital evidence in legal cases. Technical reports utilizing advanced technology, such as facial recognition and metadata analysis, were submitted to examine the evidence.
4. New interpretations have emerged that explicitly criminalize homosexuality under the Cybercrime Law 175/2018, in contrast to the de facto situation under the Anti-Sex Work Law 10/1961.
5. Legal consultations were provided on various important topics, including legal gender recognition for transgender individuals, addressing issues related to Blackmail, navigating the complexities of seeking asylum within Egypt and abroad, and addressing healthcare concerns specific to intersex individuals.
6. Limited access to justice remains a challenge for queer individuals who are victims of gang violence and Blackmail. Many beneficiaries who approached us were hesitant to pursue legal action due to the potential risks of prosecution by authorities if their sexual orientation or gender identity were revealed when filing criminal complaints against their abusers.
7. In two cases, transnational aggression was observed when the families of two cisgender queer women, who had fled Egypt to escape family violence and seek asylum abroad, were traced with the assistance of Egyptian embassies in the respective countries where the women had sought refuge. We were able to provide legal protection to one of the women, as she was residing in a Western European country. Unfortunately, we were unable to assist the second woman, as she was in a neighbouring Middle Eastern and North African (MENA) country.
8. Our strategic litigation efforts have expanded to include transgender rights. We filed the first petition on the right to health in Egypt. We also provided technical assistance to an activist's lawyer in Tunisia who applied for legal gender recognition through the Tunisian Judiciary.



Introduction

Cairo 52's Legal Unit has been dedicated to promoting sexual and bodily freedoms in Egypt and the MENA region since its establishment. This is achieved through our three departments: Legal Aid, Legal Consultation, and Strategic Litigation. In the context of Egypt, where vice laws are often used to restrict these freedoms in the name of societal morality, an intersectional approach is crucial. These laws target various marginalized groups, including women sex workers, LGBTQ+ individuals, and people living with HIV.

Given that the implementation of laws and legal precedents impacts different groups, it is essential for us to provide effective legal representation to all those affected by vice laws. This ensures that we are prepared for any arrest tactics or legal precedents that may arise in these cases, regardless of the identities of the individuals involved. For instance, a legal principle established in a case involving a sex worker could have implications for a case involving a queer person and vice versa.

The term "vice laws" refers to two primary laws that play a central role in prosecuting individuals: Law 10/1961, which pertains to anti-sex work regulations, and Law 175/2018, which focuses on cyber-crimes. However, the application of these laws extends beyond their intended purposes. For example, charges related to sex work, such as "positionprostitution" for females and "debauchery" for males, have been broadly interpreted by the Court of Cassation. This has made it easier for authorities to use these charges even in cases where sex work is not proven

Additionally, the new Cybercrime law includes vague charges, such as violating family and social values under Article 25. These charges lack transparent and clearly defined criteria, as Egyptian families and social values do not have a fixed definition and can be interpreted differently by individuals.

Although the term "vice laws" is used, these two laws can be viewed as morality laws. Their application primarily revolves around controlling morality in both digital and offline spaces, as individuals are surveilled and prosecuted if they are considered a threat to the accepted moral standards set by the State. Consequently, it is not surprising that these laws have been used not only against sex workers but also against LGBTQ+ individuals and even TikTok users. This highlights how the concept of vice, according to the State, transcends identities and criminalizes anyone deemed morally unacceptable by the authorities.

While our work in the legal aid division focuses on providing efficient legal representation for individuals facing prosecution under vice laws, the legal unit also offers comparative legal consultation services for LGBTQ+ individuals who navigate a hostile legal environment and challenging social realities. Therefore, to ensure adequate legal support, our legal team goes beyond representation to offer pro bono legal consultation for LGBTQ+ individuals, helping them navigate the adversarial legal landscape they encounter.

Lastly, Cairo 52's Legal Unit employs strategic litigation to advance sexual and bodily freedoms in Egypt and the MENA region. This involves various litigation efforts, including appeals to the Egyptian Court of Cassation, with the aim of establishing new legal principles that benefit defence lawyers in securing favourable judgments. Furthermore, the strategic litigation department focuses on advancing transgender rights by developing and implementing legal strategies to address issues such as the right to health and legal gender recognition for transgender individuals.

The subsequent report is divided into three sections, highlighting our activities throughout 2023 within our three central departments.

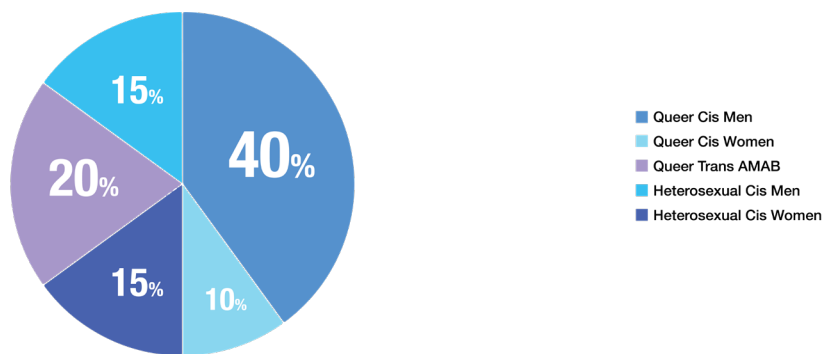


Pro Bono Legal Representation

The legal aid component within the legal unit aims to offer exceptional legal representation to individuals who face prosecution under vice laws, with a particular focus on LGBTQ+ individuals and sex workers, as these groups are disproportionately targeted under this legislation. In the current year, the legal unit of Cairo 52 successfully provided legal representation to 20 individuals across 13 distinct cases.

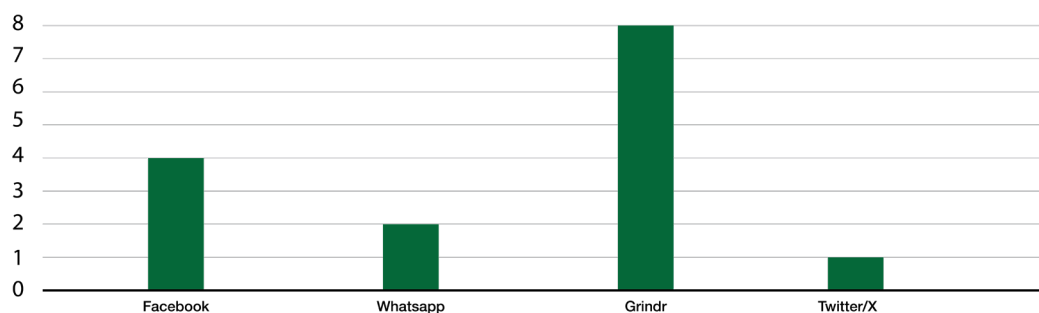
Out of the total of 20 individuals, six heterosexual cisgender people were arrested as couples, six transfeminine individuals who were assigned male at birth (AMAB), three cisgender gay men, and two bisexual cisgender women. All of the individuals were detained on the grounds of their alleged involvement in sex work, with a focus on soliciting male clients.

Sexual Orientation & Gender Identity



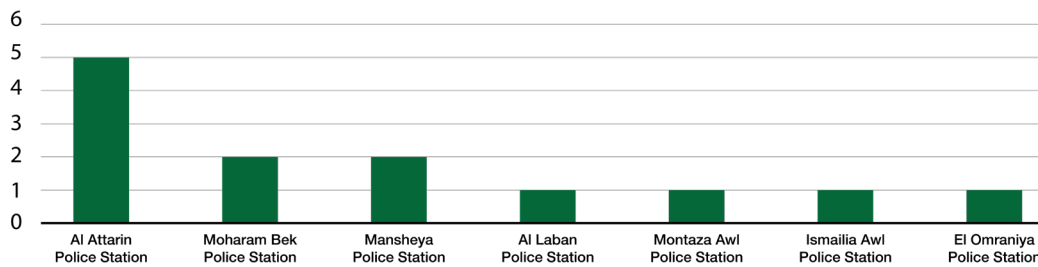
In recent years, the vice police have undergone a significant transformation, shifting their focus from predominantly offline operations to embracing a more digital approach with the intention of regulating morality in the digital realm. Consequently, there has been a shift in the methods of apprehension, moving away from targeting houses, brothels, and streets and towards online spaces through the utilization of entrapment techniques. This entrapment approach involves an informant assuming the role of a potential date for the victims; once a meeting is arranged, the victims are subsequently apprehended upon their arrival. The employment of the entrapment method is legally contentious, as Egyptian laws permit its use for the purpose of exposing a crime but not for incitement. The blurred technical distinction between these two terms presents a challenge when contesting the method's legality as a means of arrest in Court. All individuals were apprehended via online platforms, specifically:

Distribution of Online Platforms Where the Arrest & Evidence was Collected



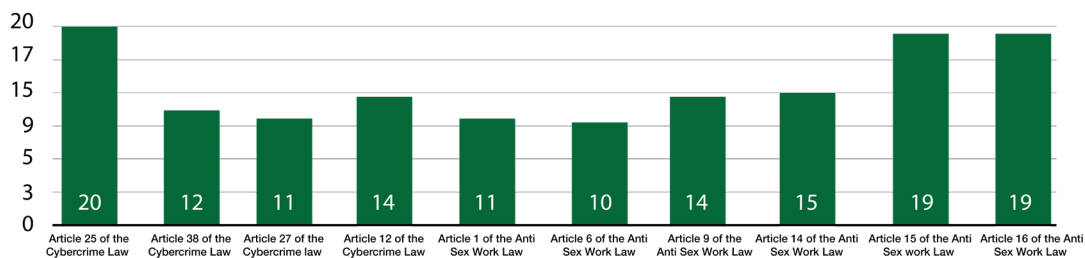
As for the place of the arrest, most of the cases (11 out of 13) took place in Alexandria, Egypt's second-largest city. The two remaining cases took place in Giza and Ismailia. The following chart shows the distribution of cases based on the police station responsible for them:

Distribution of Cases Based on Place of Arrest



Law No. 10/1961 is related to anti-sex work, and The Cybercrime law is No. 175/2018. The cases pertaining to these two laws involve various articles, which can be delineated as follows:

Distribution Legal Articles Utilized by the Prosecution on a Per-Person Basis



Despite the plethora of legal articles utilized in the official charging by the prosecution, four primary charges are consistently present in most cases:

- Incitement of debauchery and prostitution under the provisions of Anti-Sex Work Law 10/1961.
- Habitual engagement in debauchery and prostitution as stipulated by Anti-Sex Work Law 10/1961.
- Misuse of an internet and social media platforms by establishing an account for the purpose of committing a crime, thereby contravening Cybercrime Law 175/2018.
- Violation of social and family values, which is in breach of Cybercrime Law 175/2018.

While an individual may face charges under multiple legal articles, their sentencing is determined based on a single article, as outlined in Article 32 of the Egypt Penal Code:

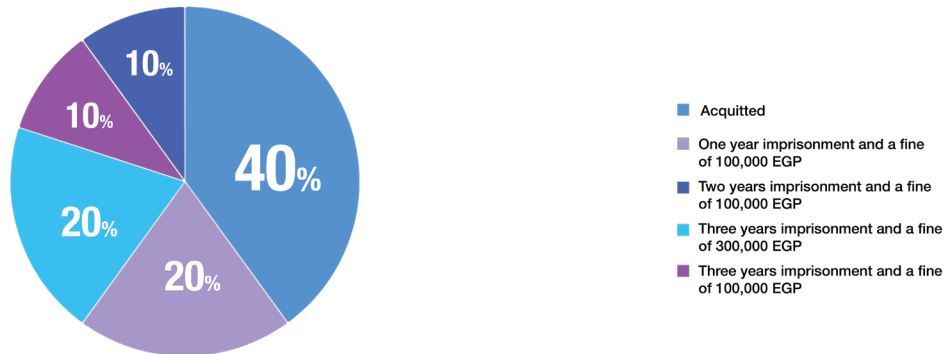
If a single act constitutes multiple crimes, the crime for which the punishment is more severe is to be considered when deciding sentencing.

If several crimes are committed for the same purpose and are linked to each other so that they cannot be separated, they must all be considered one crime, and the penalty prescribed for the most severe of these crimes must be imposed.

Consequently, the Courts consider all these criminal charges as interconnected, forming part of a unified crime. Given that these crimes occur in the digital domain, the economic courts are tasked with reviewing such cases, as they have been designated responsible for crimes committed under the Cybercrime law. As this law imposes more stringent penalties for these offences, the sentencing is conducted in accordance with the punishments stipulated in the Cybercrime law rather than the anti-sex work law.

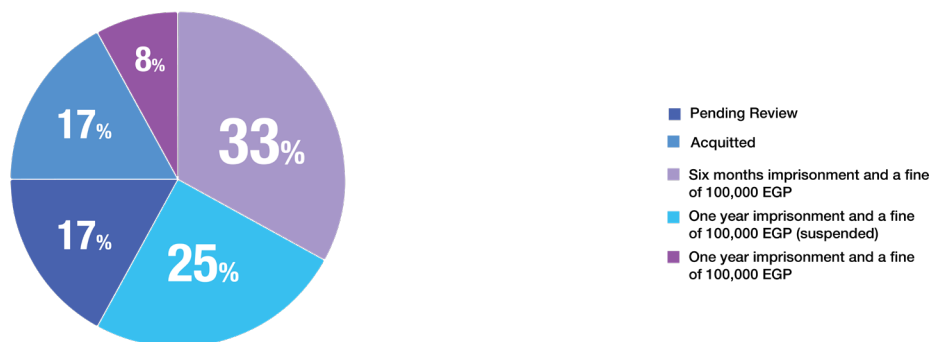
Litigation in these cases occurs in two degrees, namely, the Economic Court of First Instance and the Economic Courts of Appeals. The following graph illustrates the verdicts handed down in the first instance for each individual. Out of the total of 20 individuals, eight were acquitted at the first instance, while the remaining individuals received sentences ranging from one to three years of imprisonment, along with fines ranging from 100 thousand EGP (US\$3,238.59) to 300 thousand EGP (US\$9,715.76).

First Degree sentences per Person



In the appeal stage, there are still two cases involving two individuals that have not yet been reviewed. The remaining cases, involving ten individuals, proceeded to appeal. Among these, two were acquitted, while the remaining eight individuals received reduced sentences ranging from six months to one year, along with fines totalling 100,000 EGP (US\$3,238.59). Out of these eight individuals, three were given suspended sentences, exempting them from serving time in prison but requiring them to pay the fine.

Second Degree sentences per Person



So, in total, twenty individuals were charged across the two degrees. Of these, eight were acquitted in the first degree, and two were acquitted in the second degree, resulting in a total acquittal rate of 50% among the charged individuals. Three individuals received suspended sentences, exempting them from prison time, accounting for 15% of the charged individuals. Four individuals received reduced sentences, serving only six months of imprisonment, representing 20% of the charged individuals. Lastly, one individual received a reduced sentence of one year, constituting 5% of the charged individuals. Additionally, two individuals are currently awaiting the review of their appeal by the Courts, accounting for 10% of the charged individuals.

Key Highlights:

1. Vice police have shifted their focus from targeting individuals through non-digital means, such as houses or random street stops, to primarily focusing on the digital space. This

shift aligns with statements from the Ministry of Justice, Interior, and the Public Prosecution office, which aim to control the digital space to protect Egyptian society from immorality.

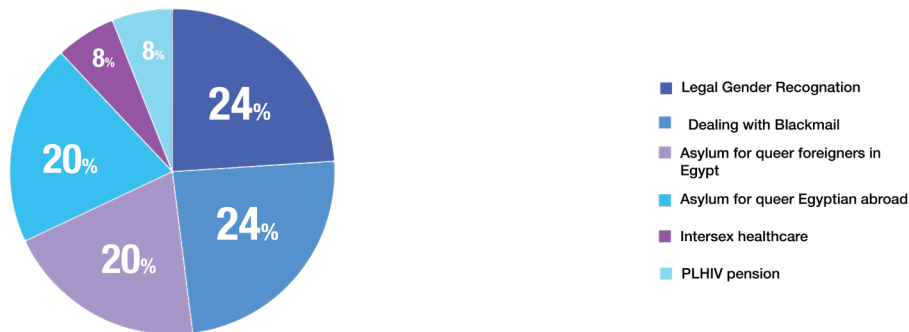
2. Digital evidence has become crucial in these cases, making litigation more challenging due to difficulties in challenging digital evidence in Courts. In 2020, an executive memorandum was issued for the Cybercrime Law 175/2018, which made it mandatory to send digital evidence for examination by technical experts. In the cases examined in this report, technical expert reports typically utilize advanced methods such as metadata analysis and facial recognition to link the digital evidence to the arrested individuals. In cases involving transgender people, facial recognition technology has been essential for the prosecution to establish that the arrested person is the same individual depicted in the collected pictures.
3. As most arrests now occur in the digital space, authorities have expanded the use of entrapment in cases prosecuted under vice crimes. Entrapment is a controversial method, as although it is permitted under Egyptian law, it should only be employed to uncover a crime, not to incite an individual to commit a crime and then arrest them for it. It has been observed that informants hired by the vice police often incite people to commit the crime. However, challenging such usage in Courts has yielded no positive outcomes.
4. In one case, a judge addressed the argument that the charge of inciting debauchery does not apply to people arrested through Grindr, as inciting requires an element of publicity. The judge disagreed, drawing a comparison between Grindr and Facebook and stating that both apps are open to the public through registration, making them public spaces. Therefore, inciting debauchery on Grindr fulfils the element of publicity.
5. In multiple cases, judges have reinterpreted the charge of «debauchery» from the Anti-Sex Work Law 10/1961 to explicitly criminalize «homosexuality» in conjunction with Article 25 of the Cybercrime Law, which criminalizes the violation of social and family values. Judges have developed the reasoning that while debauchery under the Anti-Sex Work Law 10/1961 only refers to male sex work, its interpretation can be expanded under the Cybercrime Law to include homosexuality, as homosexuality is naturally against Egyptian family and social values.
6. In cases involving individuals identified as queer, judges have exhibited socio-religious bias. Unlike in cases involving individuals identified as heterosexual, judges often invoke religious and societal standards to condemn the actions of the accused.
7. Difficulties arise in securing funds to pay the fines. Unlike the Anti-Sex Work Law, the penalties under the Cybercrime Law are high. They can impose a significant financial burden on those convicted under this law, especially given the ongoing economic crisis in Egypt.
8. Litigation times have also increased. It has been observed that, unlike in regular courts, the litigation process in economic courts has been extended by 3 to 6 months, resulting in some cases lasting nine months to a year from the initial trial to the appeal. This can be attributed to the fact that economic courts and prosecution offices have lower capacity than regular courts and were not adequately prepared to handle the influx of cases under the new Cybercrime Law. Furthermore, as digital evidence requires a thorough examination by technical experts, this further extends the litigation time. Longer litigation times have a negative impact on the accused individuals, leading to emotional and mental distress, increased litigation costs, and, in some cases, imprisonment before receiving a sentence.



Legal Consultation

The legal team diligently offered pro-bono legal consultation services to individuals within the Egyptian LGBTQ+ community. Over the course of recent years, the team has provided a total of 34 consultations covering a wide array of topics. These topics encompassed matters such as facilitating legal gender recognition for transgender individuals, addressing issues related to Blackmail, navigating the complexities of seeking asylum within Egypt and abroad, as well as addressing healthcare concerns specific to intersex individuals.

Consultation By Theme



Legal Gender Recognition (8 Cases): While Egypt lacks clear policies or laws governing legal gender recognition for transgender individuals, a general administrative process is facilitated by the Ministry of Interior's Civil Registry Authority to modify official document entries. Our organization guided transgender individuals seeking legal gender recognition through this mechanism, furnishing them with a comprehensive list of required documents, instructions on their acquisition, and an overview of the entire process. Regrettably, legal professionals are unable to pursue legal gender recognition on behalf of transgender individuals, as the personal presence of the applicant is a prerequisite for any modification to the civil registry.

Addressing Blackmail (8 Cases): In recent years, criminal gangs have begun to exploit queer dating applications, such as Grindr, by arranging meetings with unsuspecting victims and subsequently subjecting them to physical assault, robbery, and the covert filming of their encounters for the purpose of extortion. Although Egyptian laws empower victims of both online and offline blackmailing to file criminal complaints, and instances of prosecution in such cases have occurred, queer individuals often feel disinclined to pursue official legal avenues due to the associated risks of having their sexual orientation disclosed to law enforcement authorities, potentially leading to prosecution under vice-related statutes. Consequently, while our organization endeavours to provide guidance on navigating the issue of blackmail and gang attacks through lawful means, none of the beneficiaries expressed a desire to initiate legal proceedings.

Asylum for LGBTQ+ Foreigners in Egypt (7 Cases): Egypt serves as a focal point for individuals seeking asylum from the Middle East and North Africa (MENA) regions and select countries in sub-Saharan Africa, with Eritrea and Ethiopia being the primary nations of origin. The United Nations High Commissioner for Refugees (UNHCR) assumes responsibility for processing asylum applications in Egypt, with queer asylum seekers regarding the nation as a transitory stop on their journey towards resettlement in a secure third country in Western Europe, the United States of America, Canada, Australia, or New Zealand. Our organization provides assistance to recently arrived asylum seekers, guiding them through the application process with the UNHCR, facilitating the procurement of necessary documents, and preparing them for the initial interview conducted by UNHCR caseworkers.

Asylum for LGBTQ+ Egyptians Abroad (7 Cases): Owing to the increasingly inhospitable sociocultural and legal climate confronting queer individuals in Egypt, many seek an improved existence devoid of discrimination, marginalization, and the spectre of criminalization in foreign lands.

Among the appealing options available to these individuals is the pursuit of asylum abroad. Our organization offers support to queer Egyptians during their asylum applications to countries such as Germany, France, the United States, and the Netherlands. We provide guidance throughout the asylum process, supply them with corroborating support letters, and facilitate their preparation for asylum interviews. One significant observation pertains to acts of transnational aggression observed in two cases involving Egyptian asylum seekers. In these two instances, two cisgender women who identify as queer were pursued by their families, who sought the assistance of Egyptian embassies abroad to locate their daughters. Tragically, in one case, the queer woman happened to be in a neighbouring Arab country where protections for women are limited.

Consequently, the embassy and her family managed to apprehend and repatriate her to Egypt. Conversely, in the second case, the queer woman was situated in a Western European country. Thus, despite the embassy's attempts to aid her family in locating her, their efforts were futile. As a result, legal intervention became possible, opening the door for us to provide assistance to the individual by launching legal proceedings against her family and applying for successful asylum. Eventually, she was granted asylum.

These two incidents underscore the dangers faced by individuals assigned female at birth who identify as queer, particularly within the context of Egyptian culture. This culture tends to view girls and women as potential sources of shame or honour. Consequently, unlike cases involving individuals assigned male at birth who identify as queer, it is more probable for families to undertake efforts to locate their female children in order to avoid the shame associated with a daughter escaping or being queer.

Intersex healthcare (2 Cases): it is crucial to note that Egypt lacks any comprehensive, unified policies regarding this matter. We have received two requests from individuals over the age of 40 seeking assistance in accessing intersex healthcare. Their primary aim was to obtain an official diagnosis of their condition before deciding whether to proceed with any surgical interventions. To aid them in this process, we provided guidance on which hospital departments to visit and how to articulate their condition in medical terminology to facilitate the diagnosis procedure. One individual has already received the diagnosis but ultimately decided against pursuing any surgical interventions. The other individual is presently deliberating on whether to seek an official diagnosis or not.

HIV Pension (2 Cases): Regarding the provision of financial support to individuals living with HIV (PLHIV), it should be noted that the Egyptian Ministry of Social Affairs offers a modest monthly pension in such cases. As such, we have received requests from two individuals seeking assistance obtaining the necessary documentation to access this pension and requiring guidance throughout the application process.



Strategic Litigation

Our strategic litigation unit is dedicated to identifying novel avenues for legal and policy engagement through the Judiciary. In the year 2023, our attention was directed towards transgender rights when we lodged a petition with Egypt's Administrative Courts against the Ministry of Health and the Medical Syndicate. This petition highlighted their violations of transgender individuals' conditional right to health and called for an immediate correction to grant transgender people access to gender-affirming healthcare in government hospitals. It is important to note that the case is currently pending and awaiting review by the courts. For further information regarding the case and the key arguments presented, please visit the following page: [Strategic Litigation Alert: Transgender Right to Health](#).

In addition to our efforts in Egypt, we have also collaborated with a lawyer representing a local activist in Tunisia. The lawyer's objective was to file a lawsuit against the State in order to secure legal gender recognition. To support the appeal process, we provided technical assistance by offering invaluable insights from comparative MENA law, Islamic Law, and international law. These insights bolstered the overall argument for the plaintiff's legal gender recognition. As of now, a final verdict from the Court is still pending. For more information regarding the first-degree judgment in this case, please visit the following page: [Tunis Court of First Instance: Gender Identity Disorder is Not A Valid Reason for Legal Gender Recognition](#).



Annexe:
Articles Used from the Anti Sex
Work Law 1961/10

Article 1:

- A. Whoever incites a person, be they male or female, to engage in debauchery or in prostitution, or assists in this or facilitates it, and similarly whoever employs a person or tempts him or induces him with the intention of engaging in debauchery or prostitution, is to be sentenced to imprisonment for a period not less than one year and not more than three years and a fine between 100 and 300 LE in the Egyptian administration and between 1000 and 3000 Lira in the Syrian administration.
- B. If the person upon whom the crime is perpetrated has not reached the age of twenty-one years, the punishment is imprisonment for a period not less than one year and not more than five years and a fine between 100 and 500 LE in the Egyptian administration and between 1000 and 5000 Lira in the Syrian administration.

Article 6:

The following are sentenced to prison for a period not less than six months and not exceeding three years:

- A. Whoever assists a female to carry on prostitution, even if only by way of monetary expenditure.
- B. Whoever exploits in any fashion the prostitution or debauchery of a person.

Article 9:

Punishment by imprisonment for a period not less than three months and not exceeding three years and a fine not less than 25 LE and not exceeding 300 LE in the Egyptian administration and not less than 250 Lira and not exceeding 3000 Lira in the Syrian administration or one of these two punishments applies in the following cases:

- A. Whoever lets or offers in whatever fashion a residence or place run for the purpose of debauchery or prostitution, or for the purpose of housing one or more persons, if they are to his knowledge practising debauchery or prostitution.
- B. Whoever owns or manages a furnished residence or furnished rooms or premises open to the public and who facilitates the practice of debauchery or prostitution, either by admitting persons so engaged or by allowing on his premises incitement to debauchery or prostitution.
- C. Whoever habitually engages in debauchery or prostitution.

Upon the apprehension of a person in the last category, it is permitted to send him for a medical examination. If it is discovered that he is carrying an infectious venereal disease, it is permitted to detain him in a therapeutic institute until his cure is completed.

It is permitted to determine that the convicted person be placed, upon completion of his sentence, in a special reformatory until the administrative agency orders his release. This judgment is obligatory in cases of recidivism, and the period spent in the reformatory is not allowed to be more than three years.

Article 14:

Whoever publicizes by any form of publicity an invitation which includes inducement to debauchery or prostitution or draws attention to this is to be punished by imprisonment for a period not exceeding three years and a fine not exceeding 100 LE in the Egyptian administration and 1000 Lira in the Syrian administration or one of the two punishments.

Article 15:

As a consequence of a judgment of guilty in one of the crimes stipulated in this law, the convicted person may be placed under observation by the police for a period equivalent to the length of the sentence. This is without infringement of the special laws regarding homelessness.

Article 16:

The penalties provided for in this article shall not disrupt the execution of the more severe penalties provided for in other laws.

Articles Used from the Cybercrime Law 175/2018**Article (25)**

Anyone who infringes a family principle or value of the Egyptian society, encroaches on privacy, sends many emails to a certain person without obtaining his/her consent, provides personal data to an e-system or website for promoting commodities or services without getting the approval thereof, or publishes, via the information network or by any means of information technology, information, news, images or the like, which infringes the privacy of any person involuntarily, whether the published information is true or false, shall be punishable by imprisonment for no less than six months and a fine of no less than fifty thousand Egyptian Pounds and no more than one hundred thousand Egyptian Pounds, or by one of these two penalties.

Article (38)

Without prejudice to rights of other bona fide third parties, in case of conviction in any of the crimes stipulated herein, the Court shall confiscate tools, machines, equipment and devices which may not be possessed according to the law or other tools, machines, equipment and devices used in committing, participating in or facilitating the crime. In the cases where the obtainment of a license from a governmental entity is a precondition for practising the activity, however, the legal person convicted of any of the offences mentioned in the current law didn't obtain such license, the Court shall decide the closure of the legal person in addition to the prescribed penalties.

Article (27)

In cases other than those stipulated herein, anyone who creates, manages, or uses a website or a private account on the information network for the purpose of committing or facilitating a punishable crime shall be punishable by imprisonment for no less than two years and a fine of no less than one hundred thousand Egyptian Pounds and no more than three hundred thousand Egyptian Pounds, or by one of these two penalties.

Article (12)

Without prejudice to any severe penalty provided for in the Penal Code or any other law, and subject to the provisions of Law No. 12 of 1996 Promulgating the Child Law, the following crimes shall be punished according to the penalty next to each crime.



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